FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.166 OF 2006

Office notes, office Memoranda of Coram, appearance, Court's orders or directions and Registrar's orders.	Court's or Judge's orders.

Mr. Niranjan Mundargi for the Petitioner.
Mr.D.R. More, APP. for the State.

CORAM: R.S. MOHITE,J.
DATED :31/1/2006.

P.C.

1. This petition impugns an order passed by the Metropolitan Magistrate 12th Court, Bandra summoning the Branch Manager of the Bank to appear as court witness. It appears that the court was under the impression that very factum of dishonour of cheque on account of insufficiency of funds which was basic ingredient of offence had not been proved though it was of vital significance for a just decision of the case. In my view, such an order can be passed under Section 311 of the Cr.P.C. It must be borne in mind that the application was not made by the

prosecution but the court itself has issued summons for just decision of the case. This cannot be termed as attempt by the prosecution to fill up the lacuna because the order is the sue moto order of the court. Even otherwise no prejudice will be caused to the petitioner as he has a right to cross examine the witness. Hence, I am not inclined to entertain this petition. Petition rejected.

(R. S. MOHITE, J.)